

REMARKS

Claims 1-6 and 8-10 are pending in the present application. Claims 7 and 11-24 were previously cancelled. Applicant is amending herewith Claim 1. Support for these amendments can be found generally throughout the specification. Applicant thanks the Examiner for his courtesy in granting applicant a telephone interview. During the interview, it was agreed that the foregoing amendments of Claim 1 distinguished the present invention over the prior art of record, in particular, the patents to Prost (U.S. Patent No. 4,633,957), Williams et al. (U.S. Patent No. 6,564,880) and Clarke (U.S. Patent No. 1,103,484). In accordance with the agreement with the Examiner, applicant submits that all claims are now in condition for allowance.

The Office Action:

Claims 1-10 were rejected under 35 U.S.C. §102(b) as being anticipated and unpatentable over the patent to Clarke (U.S. Patent No. 1,103,484). Applicant respectfully traverses the foregoing rejection.

The Rejection Under 35 U.S.C. §102:

Claims 1-10 were rejected under 35 U.S.C. §102(b) as being completely anticipated and unpatentable over the patent to Clarke. The rejection states that Clarke discloses a tool having all of applicant's claimed structure including an elongate body, a handle portion, an applicator portion including prongs, with the tool further including a fluid inlet and a valve. Applicant respectfully traverses this rejection.

The patent to Clarke relates to a hand concrete mixer. The tool is designed to provide an “implement which may be used for the purpose of stirring and mixing the material as a hoe or a rake is now ordinarily used, and which will at the same time supply the mixture the water necessary to render it of the desired consistency.” However, the device disclosed in Clarke does not have an applicator portion sized and shaped for insertion under soil and forming an elongate opening in said soil by lateral movement of said handle portion as presently required by Claim 1. Furthermore, the elements identified as “6 and 7” in Clarke do not have a wedge-shaped tip portion for cutting sod and penetrating soil. Thus, the implement disclosed in Clarke could not be used for “forming a relatively shallow and narrow furrow or hole or slit in soil; *i.e.*, approximately 6 to 12 inches below the soil’s surface” as the present invention is intended to be used. Accordingly, the implement disclosed in Clarke is not suitable for use as a digging tool.

Applicant is also further amending Claim 1 to specify that the wedge-shaped tip portion is wider than the handle portion and that the wedge-shaped tip portion extending continuously laterally across substantially the entire width of the applicator portion. These features further distinguish the present invention over Clarke. Furthermore, those features also distinguish the present invention over Prost and Williams et al. as was agreed by the Examiner during the telephone interview.

Accordingly, applicant submits that Claims 1-6 and 8-10, as amended, now require elements not disclosed or suggested by any of the prior art of record; particularly, Clarke, Prost and Williams et al. Therefore, Claims 1-6 and 8-10 are neither anticipated by

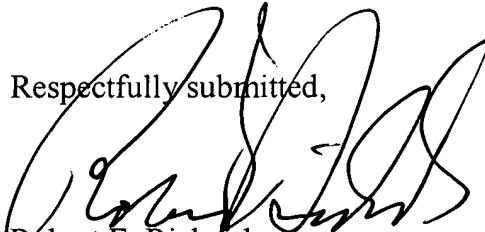
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Clarke et al. nor are they obvious in view of Clarke, Prost and Williams et al. or any other combination of the prior art of record.

Conclusion:

Applicant respectfully requests reconsideration of the present application in view of the foregoing remarks. Applicant submits that all claims are in condition for allowance. Such action is courteously solicited. Applicant further requests that the Examiner call the undersigned counsel if allowance of the claims can be facilitated by examiner's amendment, telephone interview or otherwise.

Respectfully submitted,



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